

8306

APR 21 1976

SALE AGREEMENT

AGREEMENT made this 19 day of April, 1976 among PRECISION NATIONAL TRADING CORPORATION ("Precision"), NORTH WESTERN LEASING COMPANY ("NW") and CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ("CNW").

W I T N E S S E T H:

1. Sale and Purchase. Precision hereby agrees to sell and NW hereby agrees to purchase fifteen (15) used EMD GP-7 general purpose type locomotives ("GP-7's") and fifteen (15) used EMD GP-9 general purpose type locomotives ("GP-9's"), upon the terms and conditions herein contained. The GP-7's and GP-9's to be purchased hereunder are hereinafter referred to collectively herein as "the Locomotives."

2. Purchase Price. The purchase price for the Locomotives shall be \$70,000 for each GP-7 and \$80,000 for each GP-9, or an aggregate of \$2,250,000, payable in full at the Closing hereinafter referred to.

3. Shipment; Inspection of Locomotives. (a) The Locomotives to be sold hereunder are to be selected by NW and CNW from 36 locomotives purchased by Precision's parent company, Precision National Corporation ("PNC"), from Canadian Bellequip, Ltd. and White Star Steamship Co. Ltd., which units are identified in Schedule A annexed hereto. All 36 locomotives (hereinafter referred to as "the Units") shall be shipped by Precision to NW at Oelwein, Iowa, F.O.B. Sault Ste. Marie, Michigan. Precision will be billed by the carriers for all freight charges through Oelwein and will rebill NW for all such charges in excess of charges for shipment F.O.B. Sault Ste. Marie.

(b) The Locomotives are to be sold hereunder with all Major Components (as hereinafter defined) in good running order, giving full effect to the age thereof. NW's mechanical representatives at Oelwein will be entitled to inspect the Units upon arrival to determine if the Major Components comply with the foregoing standard, and may without cost salvage Major Components from the six extra GP-7's in order to make a full complement of 15 GP-7's with the best available Major Components from the Units. "Major Components" shall include only main engines, generators, air compressors and traction motors.

(c) In the event that prior to the Closing, 30 Units do not comply with the foregoing standard, NW shall provide Precision with a detailed description of the Major Components required for compliance, and Precision shall thereafter have 30 days after receipt of such notice to provide substitute Major Components or to cause the existing Major Components to be repaired and placed in good running order.

(d) Upon the Closing, NW shall be deemed to have fully accepted all the Locomotives, and no warranties of fitness or merchantability of any of the Locomotives shall survive the Closing.

(e) Forthwith upon selection of the Locomotives, the remaining Units shall be shipped by NW to Precision F.O.B. East St. Louis, Illinois.

4. Title; Risk of Loss. (a) It is hereby specifically agreed that until the Closing and the delivery of a bill of sale hereunder, Precision shall remain in title to all of the Units and NW shall have no ownership interest in any Units. The Units are being shipped to NW solely for the purpose of enabling it to make the inspection provided for under Paragraph 3 hereof and to select the Locomotives from among the Units. Under no circumstances shall the sale provided for hereunder be deemed consummated until payment in full by NW of the purchase price hereinabove provided for and delivery of the bill of sale.

(b) Notwithstanding the foregoing subparagraph, the parties have agreed that a counterpart of this Agreement shall be filed with the Interstate Commerce Commission for the sole purpose of protecting Precision from any potential claim that Precision's interest in the Units is limited to a security interest therein. Such filing shall in no event be deemed an acknowledgment by any party hereto that NW has any rights in any unit prior to the delivery of a bill of sale hereunder.

(c) From and after the time any Unit reaches its destination at Oelwein, NW and CNW shall be jointly and severally responsible for all risk of loss or damage to such Unit. In the event this transaction fails to close for any reason, all Units shall be returned to Precision in the same condition as they were in at the time of their arrival at Oelwein. In the event this transaction is consummated, the six extra GP-7's shall be returned to Precision with a full complement of Major Components (if necessary taken from the Locomotives) and otherwise in the same condition they were in at the time of their arrival at Oelwein.

5. Closing. This transaction shall be closed at the offices of NW at 400 West Madison Street, Chicago on or before the tenth (10th) day after the arrival of the last of the Units at Oelwein at a date and time mutually agreeable to NW and Precision, except that if such 10th day falls on a weekend or holiday, the Closing shall be held on the next business day, and in any event the Closing shall not occur prior to May 10, 1976. In the event that NW has served on Precision a notice of non-compliance as to any of the Locomotives under subparagraph 3(c), then the Closing shall proceed as to all Locomotives in compliance at the time thereof, and a Delayed Closing shall be held as to all other Locomotives on the tenth (10th) day following compliance as to the remaining Locomotives. At the Closing (or any Delayed Closing), Precision shall deliver the following:

(a) A warranty bill of sale, in the form annexed hereto, as to the Locomotives being sold, containing appropriate identifying numbers as shall be reasonably required by NW so as to identify the Locomotives.

(b) A guaranty of the warranties and other obligations of Precision under the bill of sale made jointly and severally by PNC and Stinnes Corporation, duly executed by the officers thereof, in form reasonably acceptable to NW.

(c) The written opinion of Precision's counsel to the effect that as of the Closing (a) Precision is a duly organized and existing corporation in good standing under the laws of its state of incorporation, and has the corporate power to sell the Locomotives; (b) the bill of sale has been legally and validly executed and delivered by Precision and that such bill of sale is effective to transfer all of Precision's right, title and interest in the Locomotives to NW; and (c) said counsel has no knowledge of any conflicting claims, liens, security interests or encumbrances of any kind with respect to the Locomotives.

(d) Certificates of resolution from Precision, authorizing this transaction, and from PNC and Stinnes Corporation authorizing the aforesaid guaranty.

(e) Certificates of incumbency of Precision, PNC and Stinnes Corporation;

(f) Such other documents reasonably required by NW or NW's lender to transfer all of Precision's interest (or to evidence such transfer in the public records).

NW shall deliver a certified or cashier's check to Precision's order in the full amount of the purchase price for the Locomotives sold.

6. CNW Guaranty. CNW hereby unconditionally guarantees to Precision the performance by NW of all of its obligations hereunder, including the obligation of NW to reimburse Precision for freight bills, the obligation to return Units in the same condition at their arrival at Oelwein, and the obligation to make payment for the Locomotives at the Closing. This guaranty shall be unaffected by any waivers, modifications or indulgences which might be granted hereunder by Precision or which might be mutually agreed upon by Precision and NW. Precision shall be entitled to enforce CNW's obligations without exhausting any remedies against NW, as if CNW were primarily liable.

7. Miscellaneous.

(a) All notices provided for hereunder shall be deemed served when sent by certified or registered mail to the parties at the following addresses:

To CNW or NW
400 W. Madison St.
Chicago, IL. 60606
Attention: Vice President- Finance

To Precision, PNC or Stinnes
c/o Ray Jenkins
908 1/2 Shawnee Street
Mt. Vernon, Illinois

(b) This Agreement shall be construed according to and governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first set forth above.

ATTEST:

PRECISION NATIONAL TRADING CORPORATION

By: J. M. Green
ASSISTANT SECRETARY

By: R. E. Jenkins
President

ATTEST:

NORTH WESTERN LEASING COMPANY

By: Diane Kohler-Rausch
Asst. Secretary

By: J. M. Butler
Vice President

ATTEST:

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

By: Diane Kohler-Rausch
Asst. Secretary

By: J. M. Butler
Vice President

State of Illinois, County of Jefferson ss. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that R. E. Jenkins personally known to me to be the President of the

IMPRESS
NOTARIAL SEAL
HERE

PRECISION NATIONAL TRADING CORPORATION corporation, and T. M. Green personally known to me to be the Asst. Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Asst. Secretary, they signed and delivered the said instrument as Vice President and Asst. Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 23rd day of April, 1976

Commission expires April 25th, 1976 Virginia M. Rice
NOTARY PUBLIC

State of Illinois, County of Cook ss. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that J. M. Butler personally known to me to be the Vice President of the

IMPRESS
NOTARIAL SEAL
HERE

NORTH WESTERN LEASING CORPORATION COMPANY corporation, and Diane Kohler-Rausch personally known to me to be the Asst. Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Asst. Secretary, they signed and delivered the said instrument as Vice President and Asst. Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22nd day of April, 1976

Commission expires My Commission Expires Feb. 23, 1978 Margaret Hanlon
NOTARY PUBLIC

State of Illinois, County of COOK ss. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that J. M. Butler personally known to me to be the Vice President of the CHICAGO AND NORTH WESTERN

IMPRESS
NOTARIAL SEAL
HERE

TRANSPORTATION COMPANY corporation, and Diane Kohler-Rausch personally known to me to be the Asst. Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Asst. Secretary, they signed and delivered the said instrument as Vice President and Asst. Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22nd day of April, 1976

Commission expires My Commission Expires Feb. 23, 1978 Margaret Hanlon
NOTARY PUBLIC

SCHEDULE A

GP-7 Units - \$70,000

PNC Unit No.

100
104
108
110
112
113
114
116
118
120
121
122
123
138
143
144
145
150
158
170
111

GP-9 Units - \$80,000

PNC Unit No.

124
126
127
130
132
135
137
142
148
152
162
164
166
171
177

BILL OF SALE

Trading

Precision National/Corporation, a Delaware Corporation, (hereinafter called the Seller), in consideration of the sum of one Dollar (\$1.00) and other good and valuable considerations, the receipt of all of which by it is hereby acknowledged, has bargained, sold, conveyed, transferred and delivered, and by these presents does hereby bargain, sell, grant, convey, transfer and deliver unto the NORTH WESTERN LEASING COMPANY (hereinafter called the Purchaser), the following units of equipment:

S A M P L E

TO HAVE AND TO HOLD the same unto the said Purchaser, its successors or assigns forever;

THE SELLER HEREBY WARRANTS to the Purchaser, its successors or assigns, that at the time of delivery of each unit of the Equipment to the Purchaser, as aforesaid, the Seller had legal title thereto, and good and lawful right to sell the same, and that title to said unit was then free of all claims, liens, encumbrances and security interests of any nature, and the Seller covenants that it will warrant and defend such title against all claims and demands whatsoever;

IN WITNESS WHEREOF, the Seller has caused this Bill of Sale to be executed in its name by its Executive Vice President, thereunto duly authorized, and its corporate seal to be hereunto affixed and to be attested by its Secretary, this _____ day of _____, 19____.

TRADING

PRECISION NATIONAL/CORPORATION

BY

Raymond E. Jenkins
Executive Vice President

CORPORATE SEAL

ATTEST: